

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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20-CV-6539 (JMF)

ORDER


JESSE M. FURMAN, United States District Judge:

Upon review of the parties' submissions, *see* ECF Nos. 95, 96, the Court adheres to its tentative ruling, made during the telephone conference conducted on the record on September 29, 2020, that Plaintiff has not waived the attorney-client privilege or protection of the work product doctrine over the Regulator Documents. Although Plaintiff's counsel could have, and should have, handled the matter differently, the Court concludes, based on the totality of the circumstances and substantially for the reasons set forth in Plaintiff's letter, *see* ECF No. 95, that a finding of waiver would be unfair and inappropriate. In light of that, the Court agrees with Plaintiff's proposed next steps. Accordingly, Plaintiff shall file a privilege log identifying which of the documents already submitted for *in camera* review are subject to attorney-client or work product protection no later than **October 4, 2020**. Once the Court has resolved whether those protections apply, the Court will address whether any remaining documents are subject to the privileges invoked by the regulators (and will give the regulators an opportunity to be heard).

Defendants are directed to serve this order by email on counsel for each of the three regulators that asserted privileges over the Regulator Documents. In light of the expedited nature of this case and the rapidly approaching deadline for the completion of fact discovery, the Court requests that the Board of Governors of the Federal Reserve Bank and/or Federal Reserve Bank of New York expedite its administrative determination of whether the relevant documents can be produced and provide and provide answer **no later than October 13, 2020**.

SO ORDERED.

Dated: October 2, 2020
New York, New York



JESSE M. FURMAN
United States District Judge